

CHAPTER FOUR: DEVELOPMENT REVIEW

Development review includes Subdivision and Site Plan review, and certain changes of use and other procedures as outlined in Section 402. No development shall be approved unless it complies with all review criteria and findings indicated in Section 411.

All time frames for development review expressed in this chapter are maximums. The Town's staff and reviewing entities shall make every effort to conduct reviews as expeditiously as possible.

401 Applicability

401.1 The following outlines the applicability for Development Review:

A. Development review does not apply to:

- 1) a single or two family dwelling.
- 2) uses or structures that are accessory to a single or two family dwelling.
- 3) agricultural land management practices, including farm and woods roads developed in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices", as amended (Amended 9/3/02 R)
- 4) unpaved trails and paths developed in accordance with Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, as amended. (Groups or individuals planning such trails and paths are encouraged to consult with the Planning Department prior to construction) (Amended 9/3/02 R)
- 5) The *initial* non-military re-occupancy of a building in the BNAS Reuse District existing as of the July 20, 2009 adoption of this provision provided all of the following are met:
 - a) The new use is a permitted use in the Reuse Land / Use District in which it is located, per the BNAS Reuse Master Plan, approved December 2007,
 - b) The re-occupancy maintains the pre-existing pattern of use of the site including the general location of the building and parking and service areas,
 - c) The usable floor area of the building is not increased by more than two thousand (2,000) square feet, within the existing building footprint,
 - d) The amount of impervious surface on the project site is not increased by more than two thousand (2,000) square feet,
 - e) There is adequate parking available for the new use in accordance with Section 512,
 - f) The re-occupancy of the building will not change the primary use of the building from residential to non-residential or from non-residential to residential,
 - g) The *initial* non-military re-occupancy of a building shall not be considered a change of use even if it does not meet the vacancy time limits of Section 702.1. All subsequent re-occupancy of buildings in the BNAS Reuse District shall be subject to the change of use review requirements of Sections 402 and 702 of this ordinance as applicable, and (Amended 7/20/09R)

- 6) The change of use of a building in the BNAS Reuse District with less than 10,000 square feet of floor area following its initial non-military occupancy provided that the new use does not significantly intensify the use of the property compared to its previous use. A new use that increases the required off-street parking in accordance with Sections 512.1 or 512.2 by more than twenty percent (20%) or that increases the number of peak hour vehicle trips based upon the current edition of the ITE Trip Generation Manual, as amended, by more than twenty percent (20%) or that meets any of the review thresholds of Section 702.3 shall be considered to significantly intensify the use. If the Codes Enforcement Officer determines that there will be a significant intensification of the use, the activity shall be deemed to be a minor development subject to development review in accordance with Section 402.1. (Amended 7/20/09R)
- B. Activities not subject to development review still require appropriate permits issued by the Codes Enforcement Officer and/or the Village Review Board if the property is in the Village Review Zone.
- C. All activities listed in Section 402 shall be subject to Development Review.
- D. Projects subject to development review shall be divided into two classes, Major and Minor. Minor projects shall be reviewed by the Staff Review Committee. Major projects shall be reviewed by the Planning Board.
- E. Thresholds for development review apply only to new, or “add-on” construction, except as indicated in Section 402. Floor area and impervious surface area are calculated on a net basis. The floor area and the impervious surface area (roof) of a building each contribute separately to the cumulative total of the two. (Amended 6/19/00 R)
- F. If development is proposed on two or more lots and the Director of Planning and Development finds that the development functions as a single project, thresholds for development review shall be applied to the project as though the lots on which it is located were single lots. (Amended 9/4/01 R)

402 Development Review Classification and Thresholds

402.1 Activities Subject to Minor Review

The following activities shall be subject to Minor Development Review by the Staff Review Committee:

- A. Any development activity or combination of activities that, within any five year period results in the construction of the following:
 - 1. In all zoning districts except for those indicated in Sections 402.1 A.2 and 402.1 A.3: (Amended 7/20/09R)
 - a. Between 1,000 and 4,999 square feet of new floor area; (Amended 6/19/00 R)
 - b. Between 1,000 and 4,999 square feet of new impervious surface, or
 - c. A cumulative total of between 1,500 and 7,499 square feet of floor area and impervious surface. (Amended 6/19/00 R)
 - 2. In the MU4 (Fox Run), CC (Cook's Corner Center), I2 (Church Road Industrial Park), I3 (Bath Road Industrial), I4 (Exit 22), HC2 (Inner Bath Road):
 - a. Between 2,000 and 9,999 square feet of new floor area; (Amended 6/19/00 R)
 - b. Between 2,000 and 9,999 square feet or more of new impervious surface; or
 - c. A cumulative total of between 3,000 and 14,999 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)
 - 3. In the BNAS Reuse District:
 - a. Between 2,000 and 9,999 square feet of new floor area;
 - b. Between 2,000 and 9,999 square feet of new impervious surface; or
 - c. A cumulative total of between 3,000 and 19,999 square feet of new floor area and impervious surface. (Amended 7/20/09R)
- B. Any use that involves the construction of one drive-up window.
- C. Marine Activities that involve the creation of less than 5,000 square feet of new impervious surface.
- D. Construction of a multi-family dwelling unit in all zoning districts except the BNAS Reuse District, containing between 3 and 5 units that does not create a subdivision. In the BNAS Reuse District, activities involving the construction of multi-family dwellings with up to ten (10) units that do not create a subdivision are classified as Minor Projects. (Amended 7/20/09)
- E. Development subject to Special Permit (Section 701) that results in the creation of less than 5,000 square feet of new impervious surface.
- F. Construction within the Natural Resources Protection Zone subject to the provisions of section 211.2.A.3, 304.6.D.4., 304.4.B or 304.7 (Amended 9/4/01 R, 10/15/01 R)
- G. Establishment or expansion of a Neighborhood Store. (Amended 7/5/05 R)
- H. Change of use of a building within the BNAS Reuse District that affects 10,000 to 19,999 square feet of floor area, pursuant to Section 702. (Amended 7/20/09R)

402.2 Activities Subject to Major Review

The following activities shall be subject to Major Development Review by the Planning Board:

- A. The creation of a Subdivision as defined by 30-A M.R.S.A. Section 4401, as amended.
- B. Any development activity, or combination of activities that, within any five year period results in the construction of the following:
 - 1. In all zoning districts except for those indicated in Sections 402.2 B.2 and 402.2 B.3: (Amended 7/20/09R)
 - a. 5,000 square feet or more of new floor area; (Amended 6/19/00 R)

- b. 5,000 square feet or more of new impervious surface, or
 - c. A cumulative total of 7,500 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)

- 2. In the MU4 (Fox Run), CC (Cook’s Corner Center), I2 (Church Road Industrial Park), I3 (Bath Road Industrial), I4 (Exit 22), HC2 (Inner Bath Road):
 - a. 10,000 square feet or more of new floor area;(Amended 6/19/00 R)
 - b. 10,000 square feet or more of new impervious surface; or
 - c. A cumulative total of 15,000 square feet or more of floor area and impervious surface. (Amended 6/19/00 R)

- 3. In the BNAS Reuse Zoning District:
 - a. 10,000 square feet or more of new floor area;
 - b. 10,000 square feet or more of new impervious surface; or
 - c. A cumulative total of 20,000 square feet or more of new floor area and impervious surface. (Amended 7/20/09R)

- C. Any use that involves the construction of 2 or more drive-up windows.
- D. Changes of use that affect 10,000 square feet or more of floor area, pursuant to Section 702, or 20,000 square feet or more of floor area in the BNAS Reuse District. (Amended 7/20/09R)
- E. Changes of use that involve conversion of a single or two-family home to any other use in Town Residential and Residential Districts.
- F. The development or expansion of a Mobile Home Park, pursuant to Section 212.
- G. Development subject to Special Permit (Section 701) that involves creation of 5,000 square feet or more of new impervious surface.
- H. Mineral Extraction, pursuant to Section 306.6.
- I. The addition or expansion of a canopy for a gasoline sales station, pursuant to Section 306.14.
- J. Any activity in the BNAS Reuse District that is located within two hundred (200) feet of the district boundary that would otherwise be classified as a minor project. (Amended 7/20/09R)
- K. Any activity in the BNAS Reuse District that generates more than one hundred (100) peak hour vehicle trips, based upon the current edition of the ITE Trip Generation Manual, as amended, unless the activity is part of an approved subdivision or common development plan in which traffic was addressed as part of the approved plan. (Amended 7/20/09R)

402.3 Amendments and Cumulative Development

- A. Development Review Thresholds shall be based upon cumulative development totals over a five year period. If any threshold is exceeded during any five year period, all development within that time period shall be subject to review.
- B. Amendments to projects shall be subject to the level of review that is commensurate with the scope of the amendment proposed.

403 Delegation of Planning Board Review Authority

The authority of the Planning Board to review certain minor development projects is hereby delegated to the Staff Review Committee in accordance with the provisions of this Section. Whenever such delegation occurs, the term "Planning Board" shall also refer to the Staff Review Committee.

403.1 Planning Board Responsibilities

The Planning Board is responsible for the review of all major projects and of any minor project for which Planning Board review is requested by the applicant. The Planning Board may conduct

Minor Project review if recommended by either the Director of Planning and Development or the Staff Review Committee.

403.2 Staff Review Committee Responsibilities

- A. The Staff Review Committee shall consist of the Director of Planning and Development, the Town Engineer/Public Works Director, Codes Enforcement Officer, Recreation Director, Fire Chief, Police Chief, Assessor, Natural Resources Planner, Superintendent of the Brunswick-Topsham Water District, and the Superintendent of the Brunswick Sewer District, or their official designees. For the review of projects in the BNAS Reuse District, the Staff Review Committee shall be expanded to include one non-voting staff representative from the Midcoast Regional Redevelopment Authority (MRRRA). The MRRRA representative shall be designated in writing by the Executive Director of MRRRA. (Amended 7/20/09R)
- B. The Staff Review Committee, in its development review capacity, shall exercise all of the powers exercised by the Planning Board including the power to grant waivers, and the power to approve, approve with conditions, or deny applications for Site Plan approval.
- C. Actions by the Staff Review Committee to approve an application, with or without conditions, shall require the approval of a majority of those members present and voting. A quorum shall consist of three members.
- D. The Staff Review Committee may waive provisions of this Chapter and of Chapter 5, in accordance with Section 410.
- E. The Staff Review Committee shall set forth the reason for its decisions and make Findings of Fact, in writing, within 7 days of the meeting. Such findings of fact shall be sufficient to apprise the applicant and any interested member of the public of the basis for the decision.
- F. All appeals to a Staff Review Committee decision shall be heard by the Planning Board.
- G. The Staff Review Committee shall provide recommendations to the Planning Board for any project undergoing major development review. Individual members of the Committee may in addition submit letters of recommendations to the Planning Board.

403.3 Director of Planning & Development and Codes Enforcement Officer

- A. **Minor Change of Use.** For changes of use that do not exceed the thresholds required for site plan review as indicated in Sections 401.1, 402.1, and 402.2, and that do not constitute a Departmental Review pursuant to Section 702.4, the permit may be issued by the Codes Enforcement Officer, provided that the application is in compliance with all relevant provisions of this ordinance. (Amended 7/20/09R)
- B. **Minor Modifications.** The Planning Board's review and approval is based upon the application plans and materials submitted by the applicant. The Director of Planning and Development may find proposed changes to an approved site plan, subdivision or Special Permit or related materials to be minor modification in which case approval by the Planning Board or the Staff Review Committee shall not be necessary. (Amended 9/4/01 R)

404 Restrictions on Activities During Review

404.1 Pending Application

An application for development approval shall be considered to be pending from the date of the submission of a Sketch Plan until the Final Plan denial, approval, or conditional approval date. An application shall not be considered to be pending upon the following:

- A. the expiration of Sketch Plan approval, which shall be one year from the date that sketch plan approval was granted;
- B. the receipt in the Department of Planning and Development of the applicant's written statement withdrawing the application; or

- C. the failure of the applicant to respond to requests for additional information, appear at Board hearings, or otherwise maintain the application in an active state for a period of 4 months or more.

404.2 Prohibited Activities

Demolition, excavation, filling, grading, removal of topsoil, and clearing of vegetation are prohibited on any portion of a property that is subject to a pending application for development review. Failure of the applicant to comply with these activity prohibitions, as determined by the Codes Enforcement Officer, may cause the application to be denied. If an application is denied pursuant to this Section 404.2, the application process shall be terminated. If the applicant chooses to reapply for the same project or submit a new application for a different project, the applicant must submit a detailed plan for remediation of any adverse impacts of the prohibited activity.

404.3 Lawful Activities Exempt

The following otherwise lawful activities are exempt from the provisions of Section 404.2:

- A. Activities related to the development of a lot not included in a subdivision or proposed subdivision unless such lot is subject to a pending Site Plan application;
- B. Activities required for the routine maintenance of existing structures or uses or to remedy a safety hazard;
- C. Activities incidental to the gathering of information needed for the pending application for development review (i.e. land surveying, soils mapping, etc.), provided that such activities be undertaken in a manner that minimizes the disruption of the site;
- D. Activities that are unrelated to the pending application, as determined by the Codes Enforcement Officer.

404.4 Issuance of Permits When Application For Development Review is Pending

The Codes Enforcement Officer shall not issue building permits for construction on any portion of a property that is subject to a pending application for development review except as permitted in Subsection 404.3.

405 Review Procedures

The following outlines the review procedures for development requiring Subdivision or Site Plan approval.

405.1 Pre-Application Meetings

Pre-application meetings prior to Sketch Plan are optional but are strongly recommended prior to the expenditure of funds toward the design of a development proposal.

A. Staff Review Committee

Prior to submitting an application for development review, the applicant is advised to meet with the Staff Review Committee to discuss application requirements, waivers of information requirements, and applicable development criteria. At this meeting, the Staff Review Committee and the applicant can discuss the applicant's and the Town's goals for the area proposed for development to seek a common vision for the proposed project. Any question as to whether the project is major or minor may also be resolved at this meeting.

B. Planning Board

Prior to filing an application to be reviewed by the Planning Board, the applicant may appear before the Planning Board for an informational discussion of the proposed development. The applicant is encouraged to present information relevant to the property that may assist the Planning Board and Department of Planning & Development in providing input to the applicant. Such information may include a portion of a U.S.G.S. topographic map showing the property's boundaries and the surrounding area, tax assessor's maps of the proposed application, a plot plan or survey showing the property's area, shape, and existing features (natural and human-made), and the purpose and proposed configuration of the development. If possible, materials should be informally submitted to the Planning Department to allow staff review prior to the meeting. At this meeting the Planning Board may discuss which information may be waived in the formal application.

405.2 Application Submission and Required Notification

- A. Development approval applications shall be submitted to the Director of Planning and Development. For each item listed in Section 412 the applicant shall submit either the requested information or a request for a waiver from the information requirement, pursuant to Section 410.
- B. Upon receipt of an application, the town shall provide the applicant a dated receipt. The town shall notify the owners of all property located within a 200 foot radius of the boundaries of the proposed development, giving a general description of the project and specifying its location. The town shall mail notifications via first class mail between 15 and 10 days prior to a scheduled review for which it is required.

405.3 Determination of Completeness of Application

- A. An application is complete when an application form and all plan requirements or waiver requests have been submitted to the Director of Planning and Development. Within five working days of receiving an application, the Director of Planning and Development shall determine whether the application is complete. If an item is missing from the application and no waiver has been requested for it, the Director of Planning and Development shall notify the applicant in writing that the application is not complete and request the additional information required. The applicant shall submit the additional information as soon as possible and the procedure in this paragraph shall be repeated until the application is complete.
- B. With the exception of pre-application meetings, no application shall be placed on the Planning Board or Staff Review Committee agenda until the application is deemed complete.
- C. As used in this Section 405.3, "complete" shall mean that:
 - 1. all submission requirements established by this ordinance have either been complied with or a wavier has been requested;
 - 2. any additional information requested by the Planning Board or Staff Review Committee at any prior meeting has been provided; and

3. all conditions of any relevant prior approval for the property have been fulfilled unless the application describes the manner in which unfulfilled conditions will be addressed.

405.4 Procedure for Minor Project Development Review

- A. In reviewing the application, the Staff Review Committee shall first determine whether or not to grant the requested submission waivers, based upon the criteria in Section 410. The Director of Planning and Development shall make recommendations concerning any requested waiver. If a waiver request is denied, the application shall be deemed incomplete.
- B. When an application for a minor project is determined to be complete, the Director of Planning and Development shall so notify the applicant. The Director of Planning and Development shall also request the applicant to submit ten additional copies of the complete application materials to the Department of Planning and Development for distribution to Staff Review Committee members. Such materials shall be received at least 15 working days prior to the Staff Review Committee meeting.
- C. Unless postponement of the decision is agreed to by the applicant, the Staff Review Committee shall issue a decision within 30 days after the Director of Planning & Development has determined that the application is complete.
- D. In issuing its decision, the Staff Review Committee shall make written findings of fact in accordance with the standards found in Section 411.
- E. A written record of the Staff Review Committee decision shall be maintained and shall be submitted to the Planning Board members and made available for public inspection. The Committee's written decision, in the form of minutes from the Committee's meeting, shall be mailed to the applicant within seven days of the meeting at which it is made.
- F. The applicant or an abutter may appeal the decision of the Staff Review Committee to the Planning Board by submitting an appeal application to the Director of Planning and Development within 30 days of the date of the action. The Planning Board may hold a public hearing and shall render its decision following the procedures in Subsection 405.5(C).
- G. All references to the Staff Review Committee in Subsections (B) through (D) above shall be construed to as references to the Planning Board if the Planning Board conducts the minor development review.

405.5 Procedure for Major Project Development Review

Major project review shall be conducted in two steps: Sketch Plan and Final Plan. See Section 412 for submission requirements. An applicant may apply to have a project reviewed for Sketch and Final Plan approval concurrently; however, for larger projects, it is strongly encouraged that two separate processes be undertaken.

A. Sketch Plan

When an application, on a form provided by the Town, is submitted to the Planning Board, that application will have formal standing before the Planning Board. The Planning Board shall then consider the sketch plan and provide planning direction to the applicant in accordance with all pertinent provisions of the ordinance. After

completing its review of the application, the Planning Board shall vote to deny, approve, or approve with conditions. The date of Sketch Plan approval, denial or conditional approval shall be the date that the Planning Board votes on a Sketch Plan application.

B. Final Plan

Once the Planning Board votes to deem a Final Plan application to be complete, the Board shall undertake the review of the proposal. Once review is complete, the Planning Board shall vote to deny, approve or approve with conditions. For site plan applications, the date of Final Plan approval, denial, or approval with conditions shall be the date that the Planning Board votes on a Final application. In the case of subdivisions, the date of approval and the date of approval with conditions shall be the date that the Chair of the Planning Board signs the recordable subdivision plan; if a subdivision application is denied, the date of denial shall be the date in which the Planning Board votes to deny the application.

C. Public Hearings

Pursuant to the provisions of 30-A M.S.R.A. Section 4403(A), the Planning Board shall conduct a public hearing for any residential development containing more than 20 units, and for any non-residential development resulting in the new development of 30,000 or more square feet.

1. When a public hearing is to be conducted, the Director of Planning and Development shall prepare a notice of the date, time and place of the hearing with a brief description of the application and its location.
2. This notice shall be distributed to the applicant and the owners of all property located within a 200 foot radius of the boundaries of the parcel containing the proposed development.
3. This notice shall be published at least two (2) times in a newspaper having general circulation in Town. The date of the first publication must be at least seven (7) days before the hearing.

D. Decision Time Limits

The Planning Board shall within 30 days of the public hearing or, if no hearing is held, within 60 days of the date on which a complete plan is submitted, or within any other time limit that is otherwise mutually agreed to, issue an order:

1. Denying the proposed subdivision or site plan;
2. Granting approval of the proposed subdivision or site plan;
3. Granting approval with conditions that it considers advisable to satisfy the criteria of this ordinance and Title 30-A M.S.R.A Section 4404.

E. Time Frames For Submission of Application and Review of Applications

The following procedures shall be applied to both the Sketch Plan and Final Plan levels of major development review.

The following Table details the required time frames for submission requirements to the Planning Board for both Sketch and Final applications, and all submission requirements. All time frames are expressed in calendar days. This table shall be considered to be a part of this zoning ordinance. In cases where the date prescribed in this table is a legal holiday, all deadlines shall apply to the previous working day.

Table 405.5E Time Frames for Major Project Review

<p>1. Three (3) Weeks Prior to Scheduled Planning Board Meeting</p>	<p>a) Deadline for filing application to Planning Board for that meeting.</p> <p>b) Applicant must submit one substantially complete set of application materials to the Director of Planning and Development. Director of Planning and Development shall date stamp the application and shall review the application for completeness.</p>
<p>2. Two (2) Weeks Prior to Scheduled Planning Board Meeting</p>	<p>a) Director of Planning and Development issues a finding of preliminary completeness of application. Completeness indicates that all required application materials have either been submitted or a waiver has been requested. If the application is found to be incomplete, the applicant shall be notified in writing, and the application shall not be placed on the Planning Board's agenda. The applicant may resubmit the application when complete.</p> <p>b) If the Director of Planning and Development finds that the application is complete, indicating that all required application materials have either been submitted or a waiver has been requested, the applicant shall submit 18 copies of all plans and materials required for review, one copy of which shall be distributed by the Director of Planning and Development to the Curtis Memorial Library. For any plan that is greater in size than 11" x 17", the applicant may chose to submit five full sized copies and one copy reduced to 11" x 17" to the Planning Department.</p> <p>c) The Town shall submit notification to persons entitled to notification pursuant to Section 405.2B.</p>
<p>3. Between Two (2) Weeks and Five (5) Days Prior to Scheduled Planning Board Meeting</p>	<p>a) Application shall be brought before the Staff Review Committee for comments and recommendations to assist the Planning Board in its review.</p> <p>b) If the project is subject to a public hearing, the first of two hearing notices shall appear in a paper of general circulation within this time frame. The first notice shall appear in the newspaper no less than 7 days prior to the hearing.</p>
<p>4. Four (4) Days Prior to Scheduled Planning Board Meeting</p>	<p>a) The Director of Planning and Development shall issue preliminary findings which shall review the application based on Section 411, and shall issue a draft set of conditions of approval, if any. This material must be mailed, faxed or hand delivered to the Planning Board and the Applicant.</p>

406 Review Process, Additional Provisions

406.1 Additional Studies

The reviewing entity may require the applicant to undertake any study which it reasonably deems essential to ensure that the development can satisfy the Review Standards of Section 411. The reasonable cost of any such study shall be paid by the applicant. (Amended 7/12/10 R)

406.2 Peer Review

Peer Review is a professional evaluation conducted by a consultant of the reviewing entity to assist in determining whether an application submission satisfies the Review Standards of Section 411. The reviewing entity may, by majority vote, select a consultant to perform a peer review for the reviewing entity at the applicant's expense. Peer review shall not be undertaken unless it is necessary for an informed review of the application materials and its costs are reasonable, considering the nature and the scope of the application. Estimated costs for peer review shall be disclosed to the applicant prior to undertaking such review. The Town shall require an applicant to deposit funds into an escrow account to be held for the purpose of reimbursing the peer review costs. The applicant shall be entitled to an accounting of the use of all funds, and shall be entitled to a refund of all funds not expended upon final approval, denial or withdrawal of an application. The reviewing entity reserves the right to deny any application due to a lack of information necessary to deem the proposal in compliance with Section 411. (Amended 7/12/10 R)

406.3 Application Fees and Costs

Applications shall be accompanied by fees established by the Town Council.

406.4 Joint Meeting, Hearing, and Application

If a proposed development requires both Subdivision and Site Plan review, the Board shall consider the Subdivision and Site Plans together and hold a joint meeting or hearing on both. A single application may be filed, provided that it contains all necessary information for both approvals.

406.5 Contract Consulting Services

The Town of Brunswick may employ independent professional consultants to assist staff in the review of applications for development review, special permits, village review zone, or natural resource related determinations to evaluate if the proposal meets all applicable provisions of the Zoning Ordinance and other related codes and ordinances as part of the application review process. Fees associated with the use of such consultant(s) shall be borne entirely by the applicant. The costs shall be paid in full prior to an application being approved, denied, or approved with conditions. If consultant services are needed after an application is approved to verify conditions, review modification requests or any other work to confirm the Zoning Ordinance standards are met, all costs shall be paid by the developer prior to receiving the building permit for the development. The estimated cost of the consultant's services shall be disclosed to the applicant prior to review and the Planning and Development Department shall oversee work of said consultant. (Amended 9/20/10 R)

407 Development Plans, Additional Provisions

407.1 Plan Approval Not To Be Deemed Acceptance of Proposed Dedications

The approval by the Board of a development plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, conservation easement, or other open space shown on such plan. When a park, playground, or other recreation area is shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the Town of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement covering future deed and title dedication, and provision for the cost of grading, development, equipment and maintenance of any such dedicated area.

407.2 Recording

All Subdivisions for which Final Plan approval has been granted, and any conditions that have been imposed by the Planning Board for the subdivision or final plan shall be filed in the Cumberland County Registry of Deeds by the applicant. If the applicant fails to record the subdivision plan within 60 days after Development Plan approval by the Planning Board, the approval shall expire. No building permits associated with a subdivision shall be issued unless evidence of all recording requirements is provided by the applicant to the Codes Enforcement Officer. Any deeds issued after the granting of subdivision approval must reference the plan and any conditions imposed upon it. The Codes Enforcement Officer

shall submit an affidavit to be recorded indicating that conditions of approval have been satisfied following the satisfactory completion of those conditions.

407.3 Phasing of Development

If an applicant wishes to undertake and complete different portions of a Site Plan or Subdivision at different times, the approved plans shall reflect the phasing. The Planning Board shall review such proposals for the phasing of development as an integral part of the proposal. In order to gain approval for a phased development scheme, the applicant shall establish that all infrastructure systems will be able to function properly upon the completion of each new phase without the benefits of the unbuilt portions of the systems located in any later phase. The Board may accept, as part of a phasing plan, temporary structures, such as turnarounds, that may be required to permit an infrastructure system within a particular phase to function properly. In the case of a Subdivision the applicant shall provide a separate performance guarantee, in a form and amount acceptable to the Town Manager and Town Engineer, for the completion of the infrastructure of each phase.

407.4 Expiration of Approval

A. General

1. Where construction and completion of improvements or fulfillment of conditions required in an approved plan is not pursued within the time limits stated below, the Site Plan, Subdivisions or Special Permit approval shall lapse according to the provisions of this Section. The applicant may, at any time before the date of approval expiration, make a written request to the Planning Board for an approval time extension. This request shall explain the reasons why the improvements have not been completed and indicate how the applicant expects to complete the project if an approval time extension is granted by the Board. (Amended 9/4/01 R)
2. The Planning Board may consider any zoning changes affecting the site when considering a request to extend any approval.

B. Site Plan Approval Expiration

Except when otherwise stipulated in an approved phasing plan, Site Plan approval expires two years after the date of Final Plan approval unless construction of the approved project has been completed by that date. The Planning Board may extend the expiration of an approved site plan.

C. Subdivision Approval Expiration

1. Subdivision approval shall expire at the end of five years after the date of Final Plan approval unless either the Town Engineer certifies that construction of all approved infrastructure systems throughout the Subdivision has been completed or the Town Manager causes the completion of all approved infrastructure systems throughout the Subdivision according to the terms of the applicable performance guarantee. This expiration provision, together with the extension and notice provisions of Subsection (A) above shall be noted on the recorded Final Plan. The town shall notify the applicant, in writing, that a subdivision is to expire on or about the fifth anniversary of the Planning Board's approval.
2. Expiration of Subdivision approval shall not affect the validity of any lot which has been properly subdivided and legally conveyed to another owner.

D. Special Permit Approval Expiration: A special permit shall expire two years after it is ratified or deemed ratified by the Town Council if no Certificate of Occupancy is granted for the use. (Amended 9/4/01 R)

407.5 Subdivision Lot Sales Prohibited Until Plan is Recorded

There shall be no sale of lots of a proposed or amended Subdivision until the following have occurred:

- A. The Final Plan or Amended Final Plan has been approved and signed by the Chair of the Planning Board; and
- B. The Final Plan has been duly recorded in the Registry of Deeds by the applicant.

407.6 Vesting Provisions

A. Vesting of Governing Law

Applications for development approval shall be reviewed under the ordinance provisions in effect at the time the application was submitted to the Director of Planning and Development.

B. Vesting of Plan Approval

Development approvals shall be fully vested from the date of the submission of a complete application until the expiration of such approval. After such expiration, the applicant shall have no rights to develop according to the expired Final Plan and shall be subject to any changes in this Ordinance that have been adopted since the first submission of a plan to the Director of Planning & Development.

C. Phased Projects

In any partially completed phased project, if the commencement of any phase is delayed by two years or more, the Planning Board may declare the project approval expired as to all uncompleted phases, upon 60 days notice to the owner of the property. The owner may request an extension of the phasing plan at any time, which shall be granted if the owner can show good cause for the delay and if the Planning Board determines that continuing the project as approved is consistent with this Ordinance as amended.

407.7 Revisions to Approved Plans

- A. An application to revise a previously approved Site Plan or Subdivision shall follow the procedure required for a minor project, unless the revision is found not to require Site Plan approval pursuant to Section 702 of this Ordinance or is deemed to be a minor modification. If the Director of Planning and Development determines that the scope of the revisions will either increase the scale of a minor project to that of a major project or will be the functional equivalent of creating another major project, the procedure for a major project shall be followed. Any amendment to a subdivision plan, with the exception of minor modifications that qualify under Section 403.3B, shall be reviewed as Major Projects by the Planning Board.
- B. The applicant shall submit a copy of the approved plan, as well as copies of the proposed revision and other information required to process the application. The proposed changes to the approved plan shall be clearly indicated on the revised plan. The application shall include information sufficient to allow the Board to make a determination as to whether or not the revisions meet the standards of this Ordinance. No plan revision shall be approved if the applicant is not in full compliance with all relevant terms and conditions of previously approved plans.

- C. If zoning requirements have changed since the approval of an original Site Plan or Subdivision Plan, the applicant's revisions shall comply with all such changes. The Planning Board or Staff Review Committee may, as a condition of approval of a revision of a Site Plan, require modifications to the original Site Plan in order to comply with such zoning changes, provided that such modifications do not cause undue hardship to the applicant and are reasonable and proportionate in scope and cost to the requested plan revision.
- D. No changes, erasures, modifications, or revisions shall be made to any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, except in accordance with this Section.

407.8 Street Names

All street names are subject to the approval of the Assessor, to ensure that the proposed name is not currently in use. Street names shall be proposed with the sketch plan application, and shall be approved by the Assessor within 10 days.

407.9 Submission of digital data

Digital data produced for any approved subdivision shall be submitted to the Town prior to issuance of the first certificate of occupancy for a project. Such digital submission shall include: project name, location, width of paving and rights-of-way, profile, cross-section dimensions, curve radii of all existing and proposed streets; profiles of centerlines of proposed streets, of a horizontal scale of 1" = 50' and a vertical scale of 1" = 5', with all elevations referred to U.S.G.S. datum and appropriate GIS reference. Digital transfer of any subdivision data in GIS format on the Town's Horizontal Datum: Maine State plane Coordinate System: Maine West Zone 4101, FIPS Zone 1802, North American Datum 1983; Units: Feet; Vertical Datum: National Geodetic Vertical Datum, 1929." The requirement of submission of digital data may be waived, upon the recommendation of the Town Engineer, for subdivisions of limited scope. Subdivision plans drawn by hand do not need to meet this requirement. (Amended 1/20/04 R)

408 Effect of Violations on Applications

No application shall be approved by the Planning Board as long as the property is in violation of any requirements of this Ordinance or of any previous Planning Board conditions imposed upon the property. This provision does not apply if the application is made in whole or in part for the purpose of bringing the project into compliance with such requirements or conditions.

409 Findings of Fact and Conclusions

The Planning Board may approve, deny, or approve with conditions an application for Development Review after it has reviewed the application and has made determinations in the form of Findings of Fact and Conclusions based on the Review Standards of Section 411.

409.1 Contents

Findings of Fact and Conclusions shall be made in writing and shall be sufficient to apprise the applicant and any interested party of the basis for the decision. Attached to it shall be the following:

- A. A report prepared by the Director of Planning and Development evaluating the application proposal based upon the Review Standards of Section 411.
- B. Any documents submitted to the Planning Board from the Town Engineer or other member of the Staff Review Committee;
- C. Any conditions imposed on the application; and
- D. Approved minutes of the meetings at which the application was acted upon.

410 Waiver Provisions

The reviewing entity may waive requirements of the Development Review Process or of standards found in Chapter 5. The applicant shall meet with the Director of Planning and Development to discuss potential waivers. The Director of Planning and Development shall make recommendations in writing to the reviewing entity concerning any requested waiver.

410.1 Waiver Criteria.

The reviewing entity may grant waivers prior to voting upon the Final Plan, in accordance with the following:

- A. The waiver shall be consistent with the Review Standards of Section 411.
- B. A waiver may be granted if the requested information or requirement is deemed by the reviewing entity to be either not relevant to the application or otherwise not necessary to determine compliance with the review standards of Section 411.
- C. A waiver may be granted for submission requirements if the reviewing entity finds that the submission of that information is not necessary to make a determination that the proposal will satisfy the review requirements of Section 411.
- D. A waiver may be granted if the reviewing entity finds that by doing so, the application will be brought closer into compliance with the goals of the Planning District, as indicated in Appendix I.

411 Review Standards

In order to grant Development Review Approval, the reviewing entity shall make Findings of Fact that the application satisfies all Review Standards of this Section. In making its finding, the reviewing entity may determine that a standard does not apply to the application. The reviewing entity may also find that a standard may be satisfied with conditions. In making its findings, the reviewing entity shall consider all requirements found in Chapters 2 and 3 of this Ordinance, which shall not be subject to waiver. The reviewing entity shall also consider all Development Plan Requirements found in Chapter 5 of this Ordinance, which may be waived only if the reviewing entity finds that the review standard has been satisfied. The reviewing entity may require any information it deems necessary in order to find that the application satisfies the Review Standards.

The burden of proof that an application satisfies all review standards rests with the applicant. All requirements listed after each Review Standard shall be considered by the reviewing entity as a means by which the standards may be satisfied. Only those requirements listed which have applicability to the application shall be considered. All requirements may be waived by the reviewing entity (except where indicated) if the applicant adequately demonstrates that the Review Standards can be better satisfied by an alternative not indicated. In addition, if the unique circumstances of an application have conditions which are not addressed in the requirements, the reviewing entity may propose alternative means by which the Review Standard may be satisfied.

411.1 Ordinance Provisions

The reviewing entity will determine that the proposed development complies with all applicable provisions and requirements of this Ordinance.

In making this determination, the reviewing entity shall consider the following:

- A. All use, density, or dimensional requirements of the zoning district or any overlay zone in which the application is located. These requirements may not be waived.
- B. All applicable provisions relating to use or lot configuration as required in Chapter 3 of this ordinance. These requirements may not be waived.
- C. Any applicable conditions of a Special Permit, Zoning Variance, or Special Exception, which may not be waived.
- D. For Open Space Developments, the Standards found in Section 308 shall be applied and shall supersede any standard or requirement found in this ordinance.

411.2 Preservation of Natural Features

The proposed development maximizes the preservation of natural features of the landscape, and does not occur within or cause harm to any land which is not suitable for development.

In making its determination, the reviewing entity shall consider the following:

- A. Section 211 (Natural Resource Protection Zone)
- B. Section 501 (Natural Features and Net Site Area)
- C. Section 502 (Flood Hazard Areas)
- D. Section 503 (Steep Slopes)

411.3 Surface Waters, Wetlands and Marine Resources

The proposed development will not adversely affect any water body or its shoreline when the property is located in part or in whole in the water body's watershed. The proposed development will not adversely affect the water quality of Casco Bay or its estuaries.

In making its determination, the reviewing entity shall consider the following:

- A. Reports or statements from a hydrogeologist, the Maine Department of Environmental Protection, Maine Department of Marine Resources, or other agent deemed appropriate by the Planning Board, which evaluates the impact of water discharges on the water quality of Casco Bay and estuaries, as applicable and necessary.
- B. Section 211 (Natural Resource Protection Zone)
- C. Section 209 (Coastal Protection)
- D. Section 504 (Storm Water Management)
- E. Section 505 (Groundwater)
- F. Section 506 (Erosion and Sedimentation)
- G. Section 507 (Sewage Disposal)

411.4 Flood Hazard Area

The proposed development activity, if it occurs within a flood hazard area, minimizes the risk of flooding.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 211 (Natural Resource Protection Zone)
- B. Section 502 (Flood Hazard Areas)

411.5 Storm Water Management

The proposed development shall satisfy the recommended storm water quality standards described in *Storm Water Management for Maine: Best Management Practices*, published by the State of Maine Department of Environmental Protection, November, 1995 as amended.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 209 (Coastal Protection)
- B. Section 503 (Steep Slopes)
- C. Section 504 (Storm Water Management)

411.6 Ground Water

The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

In making its determination, the Planning Board shall consider the following, as applicable:

- A. Section 210 (Aquifer Protection Zone)
- B. Section 504 (Storm water Management)
- C. Section 505 (Groundwater Pollution)
- D. Section 507 (Sewage Disposal)

411.7 Erosion and Sedimentation

The proposed development will be constructed in accordance with Best Management Practices and will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy situation results.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 503 (Steep Slopes)
- B. Section 506 (Erosion and Sedimentation)

411.8 Sewage Disposal

The proposed development can be served by municipal sewer, or where on-site disposal is proposed, the system is designed in accordance with all applicable local, state and federal requirements.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 209 (Coastal Protection)
- B. Section 507 (Sewage Disposal)

411.9 Water

The proposed development has a water source that is adequate to serve the proposed development, and that will have no adverse impact on existing water supplies.

In making its determination, the Planning Board shall consider the following, as applicable:

- A. Section 209 (Aquifer Protection Zone)
- B. Section 508 (Water Systems)

411.10 Aesthetic, Cultural and Natural Values

The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, significant wildlife habitats identified by the Maine Department of Environmental Protection or by the Town Of Brunswick, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 209 (Coastal Protection Zone)
- B. Section 211 (Natural Resource Protection Zone)
- C. Section 216 (Village Review Zone)
- D. Section 501 (Preservation of Natural Features and Net Site Area)
- E. Section 503 (Steep Slopes)
- F. Section 517 (Preservation of Historic Resources)

411.11 Community Impact

Municipal resources are available to service the project, and that any on-site or off-site impacts associated with the development of the project will be mitigated.

In making its determination, the Planning Board shall consider the following, as applicable:

- A. Section 509 (Community Facilities Impact Analysis)
- B. Section 510 (Development Impact Fees)

411.12 Traffic

The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed, and the traffic associated with the development shall maintain level of service within 200 feet of any existing or proposed curb-cut.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. A statement or report from a traffic engineer indicating that the proposed development will not create or further contribute to unsafe traffic conditions .
- B. Statements from the Fire Chief, Police Chief and Public Works Director evaluating the project for highway or public road congestion or safety.
- C. Section 509 (Community Facilities Impact Analysis)
- D. Section 510 (Development Impact Fees)
- E. Section 511 (Development of New Streets)
- F. Section 512 (Off Street Parking)
- G. Section 513 (Curb Cuts and Highway Access)
- H. Section 514 (Off Street Loading)

411.13 Pedestrian and Bicycle Access and Safety

The proposal shall be designed to accommodate bicyclists and pedestrians, and shall address issues of bicycle and pedestrian access, safety and circulation both within the site and to points outside of the site.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 511 (Development of New Streets)
- B. Section 512 (Off Street Parking)
- C. Section 513 (Curb Cuts and Highway Access)
- D. Section 515 (Appearance Assessment)
- E. Section 516 (Building Configuration)

411.14 Development Patterns

The proposed development shall be respectful of Brunswick's historic development patterns. In making this determination, the reviewing entity shall consider whether the proposed development is located within a rural or growth area. In addition, the reviewing entity shall consider whether proposed non-residential development will have an adverse impact on areas which are primarily residential.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 507 (Sewage Disposal)

- B. Section 511 (Development of New Streets)
- C. Section 512 (Off Street Parking)
- D. Section 515 (Appearance Assessment)
- E. Section 516 (Building Configuration)
- F. Section 517 (Preservation of Historic Resources)

411.15 Architectural Compatibility

The proposed development shall be compatible with its surroundings in terms of its size, scale, mass and design.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 216 (Village Review Zone)
- A. Section 515 (Appearance Assessment)
- B. Section 516 (Building Configuration)
- C. Section 517 (Preservation of Historic Resources)

411.16 Municipal Solid Waste Disposal

The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 509 (Community Facilities Impact Analysis)
- B. Section 510 (Development Impact Fees)

411.17 Recreational Needs

The proposed residential development will not cause an unreasonable burden on the municipality's ability to provide recreational services.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 509 (Community Facilities Impact Analysis)
- B. Section 519 (Recreation)

411.18 Access for Persons With Disabilities

The project complies with the Americans With Disabilities Act, in a manner which is compatible with Brunswick's historic architecture.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 216 (Village Review Zone)
- B. Section 515 (Appearance Assessment)
- C. Section 517 (Preservation of Historic Resources)
- D. Section 518 (Access for Persons With Disabilities)

411.19 Financial Capacity and Maintenance

The developer has adequate financial and technical capacity to complete the project, and that once it is completed, the project is expected to have adequate resources to maintain itself.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 520 (Fiscal Capacity)
- B. Section 521 (Performance Guarantee)
- C. Section 522 (Home/Property Owner's Associations)
- D. Section 523 (Protected Open Space)

411.20 Noise and Dust

The proposed development will not contribute to unreasonable noise and dust, both during construction and after the development has been completed.

In making its determination, the reviewing entity shall consider the following, as applicable:

- A. Section 524 (Noise and Dust)

411.21 Finding of Right, Title and Interest.

The applicant has sufficient right, title and interest in the subject property. (Amended 6/19/00R)

411.22 Finding of Payment of Application Fee.

The applicant has paid applicable development review application fees. (Amended 6/19/00 R)

411.23 Additional Design Review Guidelines in the BNAS Reuse and Conservation Districts

In addition to the development review requirements of this Chapter, activities in the BNAS Reuse District and BNAS Conservation District are subject to separate design guidelines established and administered by the Midcoast Regional Redevelopment Authority (MRRA). Conformance with the MRRA design guidelines is not subject to consideration as part of the development review process but all applications for development review must demonstrate that they have completed the MRRA design review process. (Amended 7/20/09R)

411.24 Environmental Compliance in the BNAS Reuse and Conservation Districts

All land use controls in the BNAS Reuse District and BNAS Conservation Districts must be implemented and monitored in accordance with state and federal laws governing said Districts. All applications for development review must demonstrate that the proposal takes into account the actions necessary to comply with all state, federal and local institutional controls applicable to the property and that the uses are in conformity with any applicable environmental restrictions. (Amended 7/20/09R)

412 Submission Requirements

The following submission requirements apply to all major review projects, unless a waiver is granted. Minor review projects shall comply with applicable sketch plan submission requirements as well as such information required for Final Plan submission as the Planning Board or Staff Review Committee may require.

412.1 Sketch Plan Submission Requirements

The following is required for Sketch Plan review unless a waiver is granted. All information provided or shown shall conform with the requirements of this Ordinance.

- A. Name, address, and telephone numbers of applicant, owner, and authorized representative.

- B. Name, registration number, address, phone number of engineer, surveyor, architect, landscape architect or planner.
- C. Interest of the applicant in property and abutting property.
- D. Tax map and lot numbers.
- E. Variances granted by the Zoning Board of Appeals, if any.
- F. Special Permits, if any.
- G. Special Exceptions, if any.
- H. Date, north point, scale, name of project, if any.
- I. Land area, existing use of the property, location of proposed development, locations reserved for future development.
- J. Tentative rights-of-way locations, lot lines, lot numbers, lot areas.
- K. Estimated soil boundary locations from the Soil Conservation Service Medium Intensity Soil Survey noting areas of severe and very severe soil limitations for the activities proposed.
- L. Existing natural, topographical, and cultural features including areas of steep slopes, bedrock outcrops, ponds, streams, aquifers, and other water bodies, wetlands, groundwater recharge areas, slumps, flood hazard areas, trees and other vegetation, excavation sites, stone walls, net site area pursuant to Section 501.2, historic and archaeologic sites, structures, or districts, and any other pertinent features.

- M. If applicable, tentative location of proposed structures, owners of existing structures, and neighboring land uses.
- N. Special conservation and recreation areas.
- O. Location map.
- P. Zoning information, including the zoning district(s) in which the property is located, and the location of any overlay zones. Such information shall be depicted on all plans submitted.
- Q. Any conditions imposed by a previous development review on the site.
- R. Such other information as the Planning Board deems necessary to conduct an informed review.
- S. A letter of consent signed by property owner authorizing the development review application in cases where applicant is not owner of property.
- T. The application fee established by the Town Council.

412.2 Final Plan Submission Requirements

A. Application Information

- 1. Perimeter survey for applications involving the subdivision of land and for major development projects, covenants, deed restrictions, easements, or rights of way existing or planned.
- 2. Name, address, map and lot number of abutting landowners.
- 3. Construction schedule, costs, and performance guarantee agreement, proof of financial capability.
- 4. A list of all waivers requested.
- 5. Such other information as the Planning Board deems necessary to conduct an informed review.
- 6. The application fee established by the Town Council.

B. Plan Requirements

Blueprint or black line prints of the Final Plan(s) shall be included with each submission package at a size not to exceed 24" x 36". All plans shall be drawn at a standard engineering scale. The plan(s) shall include:

1. Name of development.
2. Scale, date, north point, area, number of lots (if a subdivision).
3. Boundaries of all lots and tracts with accurate distances and bearings, locations of all permanent monuments properly identified as existing or proposed.
4. A signed and stamped survey plan that meets the current Standards of Practice of the Maine Board of Licensure for Professional Land Surveyors. (Amended 9/3/02 R)
5. Existing zoning district and overlay zone designation.
6. Names of engineer and surveyor; and professional registration numbers of those who prepared the plan.
7. Names of current owner(s) of subject parcel and abutting parcels.
8. Name, location, width of paving and rights-of-way, profile, cross-section dimensions, curve radii of all existing and proposed streets; profiles of center-lines of proposed streets, at a horizontal scale of 1" equals 50' and vertical scale of 1 inch equals 5 feet, with all elevations referred to in U.S.G.S. datum.
9. A general road plan noting circulation, direction, traffic control devices, street lighting, and type of lighting proposed.
10. Existing and proposed easements associated with the development.
11. Kind, location, profile and cross-section of all proposed drainage facilities, both within the development and outside of it, and a storm-water management plan which includes the submission requirements listed in the storm-water management checklist available in the Planning Department.
12. Location of features, natural and artificial, affecting the development, such as water bodies, wetlands, streams, vegetation, rail-roads, ditches and buildings.
13. Location of existing and proposed utilities; water, sewer, electrical lines, and profiles of all underground facilities. Where private well water is to be utilized, the tentative location of those wells should be shown on the plan.

14. Existing and proposed location, size, profile and cross section of sanitary sewers; description, plan and location of other means of sewage disposal with evidence of soil suitability.
15. Topography with contour intervals of not more than 2 feet.
16. A Class A (high intensity) Soil Survey prepared in accordance with the standards of the Maine Association of Professional Soil Scientists.
17. Location of all existing trees over 10 inches in diameter, locations of tree stands, and a plan showing trees to be removed as a result of the development proposal.
18. Lighting plan showing details of all proposed lighting and the location of that lighting in relation to the site.
19. Existing locations and proposed locations, widths and profiles of sidewalks.
20. Location map.
21. Approximate locations and dimensions of proposed parking areas.
22. Proposed ownership and approximate location and dimensions of open spaces for conservation and recreation.
23. Grading, erosion control, and landscaping plan; proposed finished grades, slopes, swales, and ground cover or other means of stabilization.
24. Reference to special conditions stipulated by the Planning Board, with the conditions either set forth in full on the plan or identified as specific documents filed with the Board.
25. A wetlands map drawn by a specialist delineating wetland boundaries in accordance with the methods prescribed by the U.S. Army Corps of Engineers at the time of the application.
26. Dedicated public open spaces, areas protected by conservation easements, and existing and proposed open spaces or recreation areas.
27. For Open Space Developments, a note indicating the total permitted lot count of the entire land tract based upon the density standards in this Ordinance, the number of lots created by the Plan, and the number of lots permitted to be subdivided in the future, as well as a table showing setback requirements and impervious surface coverage limits for each lot.
28. Building envelopes showing acceptable locations for principal and accessory structures.

C. Supporting Documents

Where applicable, the Final Plan submission shall include the following information:

1. Documentation of ownership or contract.
2. Drafts of legal documents appropriate to the application, including: deeds, easements, conservation easements, deed restrictions or covenants, home/property owners' association declaration and by-laws, and such other agreements or documents as are necessary to show the manner in which conservation land will be owned, maintained, and protected.
3. Draft performance guarantee or conditional agreement.
4. Disclosure of any required permits from the Department of Environmental Protection, Marine Resources, U.S. Army Corps of Engineers, Department of Inland Fisheries and Wildlife, or other agencies, as applicable; or, if a permit has already been granted, a copy of that permit.
5. Any additional statements or studies required by the Planning Board which are deemed necessary in accordance with this Ordinance.
6. Storm water management program for the proposed project prepared by a professional engineer.
7. A statement from the Brunswick-Topsham Water District of conditions under which water will be provided, in accordance with Section 508, or any private water system data.
8. A statement from the Brunswick-Topsham Water District of its review and comments on the proposed use if the project involves development within the Aquifer Protection Zone.
9. A statement from the Fire Chief recommending the number, size, and location of hydrants, available pressure levels, road layout and street and project name, and any other fire protection measures to be taken.
10. A statement by the Superintendent of the Brunswick Sewer District of the conditions under which the Sewer District will provide sewage disposal service and approval of the sanitary sewers proposed within the development; or a statement relative to the capacity of the sewage treatment plant to treat septic waste from proposed on-site septic systems. In case the applicant proposes to manage septic without the involvement of the Brunswick Sewer District, the applicant shall submit a septic management plan for the Board's review.

11. Where a septic system is to be used, evidence of soil suitability is required, in accordance with Section 507.
12. All applicable materials necessary for the reviewing entity to review the proposal in accordance with the Criteria of Section 411.
13. A plan of all buildings with new construction or expansion of an existing facility, including type, size, and footprint, floor layout, setback, elevation of first floor slab, storage, and loading areas.
14. An elevation view of all sides of each building proposed indicating height, color, bulk, surface treatment, and signage.
15. A circulation plan describing all pedestrian and vehicle traffic flow development's traffic on surrounding road systems.
16. The size and proposed location of water supply and sewage disposal systems and provision for future expansion of those systems.
17. A site landscaping plan indicating grade change, vegetation to be preserved, new plantings used to stabilize areas of cut and fill, screening; the size, location, purpose and type of vegetation.
18. Any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for Site Plan review purposes.

413. Common Development Plan

The Planning Board may approve a proposal for a project to be designated as a common development plan if it meets the criteria of this section. A common development plan may involve a development proposal for multiple new buildings or structures on a single lot, a proposal for multiple new buildings or structures on multiple lots, or a proposal for the construction of a single new building or a redevelopment building on an individual lot or multiple lots. In the latter case, the Planning Board shall evaluate the proposal in terms of how the new building relates to existing and/or planned development on adjacent lots that abut the same public or private street(s) as the subject property.

413.1 Criteria for Designation as a Common Development Plan

In reviewing a proposal for a project to be designated as a common development plan, the Planning Board shall find that all of the following criteria will be met:

- A. All buildings and structures shall be part of, and consistent with, a common pattern of development. In the case of a single building on an individual lot, the proposed building shall be consistent with the pattern of development on surrounding lots. The relationship of the buildings to public and private streets and to parking areas shall result in a unified pattern,
- B. The development shall incorporate private or public amenities that enhance the development's pedestrian friendly environment,

- C. There shall be common vehicular and pedestrian circulation systems that create a pedestrian friendly environment for the entire development and that integrate the individual buildings into an overall pattern,
- D. There shall be an overall design theme or treatment of site improvements including lighting, signs, paving, site furniture, and landscaping, and
- E. If the project is located in the CC District, the development will conform to the Cook's Corner Design Standards relating to common development plans.

413.2 Approval Process

The designation of a development as a common development plan shall be optional and voluntary, except in the case of village center type development as defined in the Cook's Corner Design Standards. Any property owner or applicant for development review may request that a development be designated as a common development plan in accordance with the following process:

- A. A request for a development to be designated as a common development plan shall be made in writing to the Planning Board on forms provided for that purpose and shall be accompanied by the materials set forth below in the submission requirements. An applicant may initiate development review in accordance with Article Four concurrently with seeking designation of the project as a common development plan.
- B. A request may be made by the owner of the property or by any party having valid right, title or interest in the property including an option to purchase or a purchase and sale agreement.
- C. The request to be designated as a common development plan shall be submitted prior to or concurrently with an application for development approval for the first building within the development.
- D. The timing of the submission and staff review of the request shall be in accordance with Section 405.5.E.
- E. Within sixty (60) days of the date on which a complete request is submitted, the Planning Board shall decide if the proposed development conforms to the criteria and shall be designated as a common development plan. If the Board finds that the criteria are met, it shall approve the designation. If not, the Board shall deny the designation and indicate the reasons for its denial.
- F. Once a development has been designated as a common development plan, all subsequent applications for development review for buildings or structures within the area covered by the designation shall be consistent with the common development plan reviewed by the Planning Board in making the determination.
- G. An owner or applicant may request that a project that has been designated as a common development plan be revised based upon new information using the same procedure as used for the initial designation. If a project is revised, the revised project must be consistent with any existing development approval.
- H. Prior to the start of construction of the first building or structure within a designated common development plan, the owner or applicant may request that the designation be vacated and no longer apply to the project. Once construction is started on the first building under the designation of a common development plan, the designation may not be vacated but may be revised.

- I. In designating a project as a common development plan, the Planning Board may identify conditions of approval that shall be attached to future development approvals to assure that construction occurs in accordance with the representations made to the Board.

413.3 Submission Requirements

A request for a project to be designated as a common development plan shall be accompanied by the following submissions:

- A. A master site plan at a scale of not more than one inch equals fifty feet showing the location of all proposed buildings and structures, pedestrian network and facilities, road network, bicycle facilities, pedestrian amenity areas, parking areas, and similar site improvements. If the request is for a single building on an individual lot, the site plan shall also identify these features on the adjacent lots.
- B. A description (including drawings or sketches) and analysis of the common features of the development that contribute to the project being in conformance with the criteria set forth above and a statement of how these common features will be applied throughout the development.
- C. A description of the pedestrian and bicycle features of the development showing how the individual buildings and structures will be designed to be pedestrian and bicycle friendly.
- D. A master signage plan showing how graphics will be used in a coordinated manner to reinforce the concept of a single, coordinated development. The signage plan shall include information on the size, location, lighting, color, and materials for signs including directional and regulatory signs.
- E. A master lighting plan prepared by a qualified lighting professional showing how site lighting will be used to reinforce the concept of a single, coordinated development. The lighting plan shall include the following:
 - 1. a written description of how the lighting will be used to integrate the project as well as provide for safety and security,
 - 2. a site plan showing the general treatment of all proposed lighting ,
 - 3. a description of the proposed lighting fixtures including photometric data, Color Rendering Index (CRI) and other descriptive information about the fixtures, and
 - 4. the proposed mounting height of the fixtures.
- F. A master landscaping plan showing how landscaping will be used to reinforce the concept of a single, coordinated development including a written description of the landscape concept and the general locations and types of landscaping proposed.
- G. Evidence of how the project will conform to the Cook’s Corner Design Standards for common development plans if the project is located in the CC District.
- H. A list of waivers requested from the Cook’s Corner Design Standards and reasons for those requests.” (Section 413 Amended in entirety 5/20/02 R)

CHAPTER FIVE: DEVELOPMENT REVIEW PLAN STANDARDS

The standards and requirements contained in this Chapter shall be applied during Development Review. These standards shall also be applied by the reviewing entity when determining if the project satisfies the review criteria of Section 411. These standards may be waived by the reviewing entity only if it determines that the waiver criteria of Section 410 have been satisfied. The burden of proof that the standards presented in Chapter 5 can be waived and that Section 411 criteria have been satisfied rests with the applicant.

501 Preservation of Natural Features and Net Site Area

This section address the preservation of natural features and net site area. Such preservation may include the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited, as a condition of approval.

501.1 Natural Features

Existing features which are important to the natural, scenic, and historic character of the Town or which add value to development, such as large trees, watercourses, beaches, scenic views, archeological resources, stone walls, and similar valuable assets shall be mapped on all plans undergoing development review. Such features shall be preserved, as much as it is practical, in the design of developments.

The Planning Board may require easements, deed restrictions, covenants or other mechanisms for the protection of such features, which shall be described on the final plan.

501.2 Net Site Area

The net site area is the portion of a parcel subject to development review that is used in the determination of allowable density. The Net Site Area is calculated by subtracting from the parcel the full area of land that:

- A. includes slopes at a gradient of more than 25% that are greater than 5,000 contiguous square feet;
- B. is located below the upland edge of any wetland;
- C. is located below the normal high water line of any protected resource;
- D. is located within any existing or proposed public street or private street right-of-way;
- E. contains habitat, whether or not mapped, for species appearing on the official State or Federal lists of endangered or threatened species where there has been evidence of the occurrence of the species;
- F. contains any of the following, whether or not mapped, as defined by the Department of Inland Fisheries and Wildlife: a) high and moderate value deer wintering areas and travel corridors; b) high and moderate value waterfowl and wading bird habitat, including nesting and feeding areas or; c) shorebird nesting, feeding and staging areas and seabird nesting islands;
- G. contains critical spawning and nursery areas for Atlantic sea run salmon, whether or not mapped, as defined by the Atlantic Sea Run Salmon Commission.

502 FLOOD HAZARD AREAS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations and all project on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that: (Amended 1/19/99 R)

- 502.1 Potential flood damage is to be minimized.
- 502.2 All proposed public and private utility systems shall be located and constructed by the applicant to minimize or eliminate flood damage.
- 502.3 The drainage plan shall ensure the reduction of exposure to flood hazards.
- 502.4 All proposals include base flood elevations, flood boundaries and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.(Amended 1/19/99 R)
- 502.5 Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development be constructed in accordance with section 211.3.E of this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process. (Amended 1/19/99 R)

503 Steep Slopes & Embankments

The reviewing entity, based on topographic information, may impose restrictions, as applicable, on sites containing at least 5,000 contiguous square feet with slopes exceeding 25% in accordance with the following:

- 503.1 Adequate erosion control and drainage measures will be in place so that erosion and sedimentation is minimized to the greatest extent practical during and after construction.
- 503.2 Cutting of trees, shrubs, and other natural vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the Maine Department of Environmental Protection.
- 503.3 Safety hazards will not be created due to excessive road or driveway grades or due to potential road washouts, landslides, slumping, soil creep, flooding or avalanches.
- 503.4 The cutting of vegetation or construction of driveways, is discouraged on any natural slope of 30% or greater, except as may be needed for recreational trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the Maine Department of Environmental Protection. Where such cutting or construction is proposed, the applicant shall propose mitigation which will ensure that the site is returned to its pre-construction condition to the greatest feasible extent.

503.5 Slope determinations shall be made based upon the topographic information. For clay embankments, the recommendations of a State of Maine certified geologist is required.

504 Storm Water Management

Development plans shall be accompanied with a Storm Water Management Plan developed in accordance with *Stormwater Management for Maine: Best Management Practices*, published by the State of Maine Department of Environmental Protection, November, 1995 as revised.

505 Groundwater

The Planning Board shall require the applicant to demonstrate that there will be no significant adverse impact on groundwater quality resulting from the project, either during development or over the long-term, in the areas of subsurface disposal of wastewater, use of fertilizers or pesticides other than for normal residential purposes, infiltration of stormwater runoff, and such other activities that pose a potential threat to groundwater quality. The applicant may be required to document existing water quality conditions and to establish a monitoring system to measure the level of impacts predicted. The applicant shall provide the Town with permanent access to such monitoring system, so that it can be added to Town-wide water quality monitoring programs. A higher level of review will be required if the project overlies a sand and gravel aquifer mapped by the Maine Geologic Survey, or an aquifer recharge area documented in professional studies prepared for the Brunswick Topsham Water District. The Planning Board may require a detailed hydrogeologic evaluation conducted by a Maine Certified hydrogeologist for projects utilizing on-site disposal that are developed at a density of 3 bedrooms per acre or greater.

506 Erosion and Sedimentation

Development plans shall be accompanied with an Erosion and Sedimentation Control Plan developed in accordance with *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Department of Environmental Protection, March 1991, as amended.

507 Sewage Disposal

Either of the following requirements for sewage disposal must be met.

507.1 Municipal Sewer

Sewer lines that connect to the municipal sewer shall not be permitted in rural districts.

In cases where municipal sewerage is proposed, the system shall conform with all standards of the Brunswick Sewer District. The reviewing entity shall require a statement from the Superintendent of the Brunswick Sewer District which states whether capacity is available for the project.

507.2 On-Site Disposal

Where a septic system is to be used, it shall be built in accordance with the Maine State Plumbing Code.

The Planning Board shall determine if a hydrogeological study shall be conducted. Generally, any development review involving a developed density of 3 bedrooms per acre will trigger the need for such a study. When making this determination, the developed density shall be the area of the development that excludes any common land or open space.

The hydrogeological study shall be prepared by, and signed, stamped and dated by a Maine Certified Geologist as required by 32 M.R.S.A. Sections 4093 and 4918. The study shall cover the evaluation of significant nearby water resources including but not limited to wells, ponds, and the ocean. For properties located within the Maquoit Bay watershed, the hydrogeological analysis shall include a computation of the project's projected nutrient load to the bay.

The following are design standards for septic systems:

A System Design

The plan must include test pit samples to establish soil suitability, and their location must be flagged on the site. Each test pit must be marked with numbers that correspond with those found on the plan. There must be 2 passing test pits per lot, with each pit identifying soil consistency within a 20 foot radius of the central boring. The direction of groundwater flow and the impacts of septic leachate on well locations that are both existing and proposed shall be described.

B Lot Standards

1. No lot may contain the septic system of any other lot unless it meets the criteria for a community septic system.

2. No portion of a septic system including easements shall be located within any portion of the right-of-way of a public road.

C Community Septic System

Community septic systems may only be permitted in Open Space Developments. Such systems will meet all state and local requirements, and will have an identified, acceptable back-up and maintenance program. Any proposed community septic system shall be supported by a hydrogeologic analysis by a Maine Certified hydrogeologist. A maintenance plan must be provided. In the case of a "peat system" bonding certificate (or equivalent financial guarantee approved by the Town) shall be provided for bed replacement and disposal.

508 Water Systems

508.1 Public Water System

When a connection to a public water supply is proposed, the water system will be designed and installed in accordance with all rules, terms and conditions of the Brunswick-Topsham Water District. The reviewing entity shall require a statement from the Brunswick-Topsham Water District of conditions under which the District will supply water, and approval of the size and location of mains, valves and hydrants proposed.

508.2 Private Water System

If a private central water supply is proposed, the appropriate permits shall be secured and information concerning the system shall be provided to the reviewing entity. If bedrock aquifer is to be the source of drinking water supply, the potential water quality problems associated with water from the bedrock aquifer shall be identified by a certified hydrogeologist with proposals for mitigation.

If an aquifer in unconsolidated sediments is to be the source of drinking water supply, then the water quality problems associated with background levels of nitrate in ground water shall be evaluated by a certified hydrogeologist with proposals for mitigation.

509 Community Facilities Impact Analysis

The Planning Board, in order to determine if the development will result in impacts outside the boundaries of the project, may require a facilities impact analysis which shall address the following:

509.1 Impact Analysis

- A. Estimated impact on the sewage treatment system, including assessment of capacity and ability to accept particular types of flowage and sewage from on-site septic systems.
- B. Estimated impact on the water system, including flow estimates, capacity and assessment of existing or potential water pressure.
- C. Estimated impact on traffic system, including the impact of projected trips on flow characteristics and the impact of traffic on existing road system.
- D. Residential development, the estimated impact on the school system, based upon the demographic description outlined in Section 509.2.

- E. Estimated impact on the public safety providers.
- F. Estimated impact on the Public Works Department, including solid waste disposal.
- G. Estimated impact on the existing storm water management system, including flow and water quality.
- H. Estimated impact on the recreation resources and provisions of methods to meet projected needs, based on the demographic description outlined in Section 509.2.
- I. Any other impact identified through the review process.

509.2 Demographic Description. For residential development, the analysis must identify the demographic market the project intends to serve, including:

- A. average family size.
- B. numbers and ages of children.
- C. anticipated time period to fill all units or lots.

Associated data, such as anticipated family income levels, type of employment, and projected housing costs may also be presented to support projections associated with the above demographic description. If transfers from existing Town families and homes are expected, the impact on the secondary market must be projected. The basis for all projections must be provided.

510 Development Impact Fees

The Planning Board may require the applicant to participate in municipal infrastructure and/or service system improvements in accordance with Section 509, where it can be clearly demonstrated that the proposed development will result in a negative impact or decline in the level of service of any existing municipal infrastructure system or service. The Planning Board shall assess and establish the applicant's level of participating in the improvement of the system or service.

510.1 Conducting the Assessment

In conducting the assessment, the Planning Board shall consider the following:

- A. The status of the system and service in the comprehensive plan and capital improvement program relative to any planned improvements and scheduling.
- B. The net effect of the proposed development on the capacity of the infrastructure or service system, indicating the percentage share caused by the development.
- C. A cost estimate for improvement of this infrastructure or service system to meet the increased demand, and an estimate of the applicant's share of that cost.
- D. An assessment of municipal water and sewer system improvements provided by the appropriate agencies.

510.2 Improvement Responsibilities

As soon as the applicant's share of infrastructure and/or service system impact has been established by the Planning Board, the Board shall select the method by which the applicant is to participate in the infrastructure and/or service system improvement. The following alternatives are available.

- A. The applicant shall agree to make the necessary infrastructure and/or service system improvements, establish a construction or service schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs within 10 years after improvements are made.

For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure and/or service system improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the site plan or subdivision review process. In arriving at the appropriate cost share for subsequent developments, the same process must be used.

- B. The Town shall agree to complete the improvements. The applicant shall pay the required share of the cost to the Town at the time of approval of the final plan which shall be held in a reserve fund until the improvement is completed in accordance with the scheduled capital improvement program of the Town. If the improvement is not completed within 10 years, the fee, plus interest, must be returned to applicant.

511 Development of New Streets

Streets shall be designed to move traffic safely. Any new street or road approved through the Development Review process must be based upon the written recommendations of the Town Engineer, Fire Chief, Police Chief and Director of Planning & Development who shall review the project for safety. Design of streets must address pedestrian and bicycle safety and movement.

511.1 Street Classification. The size and design needs of new streets shall be based upon the projected number of vehicles they are to carry. All streets shall be classified in the development review process according to the following criteria:

- A. Collector/Commercial -- Serves over 150 units.
- B. Local -- Serves 25 to 150 units.
- C. Minor -- Serves less than 25 units.
- D. Lane -- A secondary access that services housing lots from the rear lot line.

511.2 Street Design and Dedication Standards. Roads intended for public dedication must satisfy the Public Works Roadway Dedication Standards found in Appendix A. The Planning Board may approve private roadways for subdivisions; however if they do not conform with these standards they may not be considered for dedication. Applicants proposing private roadways shall apply the Alternative Roadway Standards also found in Appendix II to the greatest extent practicable.

511.3 Interconnectedness

The street design must allow for proper continuation of streets from other adjacent subdivisions and built-up areas. Dead-ends are to be avoided unless based on site constraints and there are no other feasible alternatives. For the purposes of this section, pedestrian or bicycle connections to adjacent lands may be sufficient to satisfy this requirement. This requirement may be waived in cases where interconnectedness would result in the disruption of community character.

511.4 Sidewalks

It is the intention of this Ordinance to provide sidewalks within all growth districts, with the exception of residential developments containing less than 25 units on dead end streets. Sidewalks shall be at least 5 feet wide.

511.5 Street Impact

The applicant is responsible for the assessing the impact of the proposed development on street systems, and shall be responsible for any associated improvements. If the Planning Board deems it necessary, the applicant shall undertake to improve, repair or reconstruct such street systems. If this is required by the Planning Board, the applicant shall be responsible only for the degree of improvement necessary to mitigate the impact of the proposed development.

511.6 Private Road Requirements for Subdivisions

- A. The design of all private roads shall be reviewed by the Fire Chief, Police Chief and Town Engineer prior to final approval by the Planning Board. Roadways shall be built according to the final plan, as determined by the Town Engineer, prior to the issuance of a building permit for any lot with access on a private road.
- B. The Final Subdivision Plan shall show the road clearly labeled "PRIVATE ROAD."
- C. A home-owners association shall be established to own and provide for the perpetual care and maintenance of the private road. Such home-owners association shall satisfy all standards for home-owners associations found in Section 522.

511.7 Driveway Access to Subdivision Lots

- A. The Planning Board may require the applicant to show planned driveway entrances onto streets on Subdivision Plans.
- B. Driveways on adjoining lots may be combined as common driveways where necessary to reduce the number of curb cuts and/or provide safe road access points.
- C. The Planning Board shall require the execution of a satisfactory maintenance agreement for common driveways which shall be recorded in the registry of Deeds. Such maintenance agreement shall provide that the common driveway may not be dedicated to the Town unless the owners bring it into compliance with applicable Town road standards.
- D. Common driveways may be unpaved in residential developments.

512 Off-Street Parking

Proposals subject to development review shall be accompanied by plans and information making provision for off-street parking. Such plans shall attempt to balance the provision of adequate parking for the project under review while minimizing the development of visible paved areas. In addition to the requirements set forth below, projects in the CC District are subject to the specific requirements of that district including the Cook’s Corner Design Standards. If there is conflict between these standards and those of the CC District, the more restrictive shall apply.

Parking areas must be constructed to enhance the historic layout and architectural fabric of downtown areas, protect the natural environment and visual character of the community, improve pedestrian safety and accessibility, and promote the quality of life in developed areas. (Amended 5/20/02 R)

512.1 Parking Requirements for Residential and Related Uses

These requirements may be waived for applications that involve dwelling units with less than 1,000 square feet of floor area, senior citizen housing, single bedroom dwelling units, efficiency dwelling units and studio apartments. These requirements may also be waived if the applicant can demonstrate that all required parking can be accommodated through mixed use development, shared parking or other situation deemed acceptable.

The following standards shall be applied:

- A. Dwelling unit with 2 or more bedrooms 2 spaces per dwelling unit
- B. Dwelling unit with 1 bedroom or a studio 1 space
- C. Home Occupation in a dwelling unit 1 space for each 350 square feet devoted to such home occupation plus 2 spaces for the residence.
- D. Congregate Care Facility 1 space per dwelling unit.
- E. Residence Hall Bed 1 space per 3 beds.

512.2 Parking Requirements for Non-residential Uses

The number and layout of parking spaces for non-residential uses shall be based on the need to protect the public safety and convenience while minimizing harm to the character of the community and to environmental, historic, and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. The provisional parking standards in Subsection (A) shall be applied according to the criteria in Subsection (B).

A. Provisional Parking Standards

- 1. retail or service business uses 4 spaces per 1,000 square feet of floor area
- 2. industrial/warehouse uses 2 spaces per 1,000 square feet of floor area
- 3. office uses 3 spaces per 1,000 square feet of floor area
- 4. lodging facility 1 space for each room plus one space for each non-resident employee working during any given shift, plus 1 space for every 50 square feet of floor area for meetings and functions

- | | | |
|----|--|---|
| 5. | restaurants, theaters, and other places of public assembly | 1 space for every 4 seats |
| 6. | uses not listed | as appropriate to the circumstances, or as indicated elsewhere in this Ordinance. |

B. Criteria for Applying Provisional Standards

In applying or modifying the provisional parking standards for any proposed use, the reviewing entity shall consider:

1. Parking spaces shall be sufficient to accommodate the non-residential use during a typical week.
2. The likelihood of people walking or bicycling to the proposed use and the number of bicycle racks proposed. The reviewing entity shall consider any plan by the applicant to make the site more appealing for pedestrians and bicyclists.
3. The size of the structure(s) and the site.
4. The environmental, scenic, or historic sensitivity of the site (including applicable limitations on impermeable surfaces). In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the reviewing entity may require a reduction in the size of the structure so that the available parking will be sufficient.
5. The availability of on-street parking.
6. Availability of off-site off-street parking that is open to the public, owned or controlled by the applicant, or available on a shared unit basis. Available of accessible satellite parking shall also be considered.
7. Accessibility to public transit facilities such as public bus stations or routes, or scheduled bus services to the site.
8. Other standards used in generally accepted traffic engineering and planning manuals.

512.3 Design of Parking Areas

The following requirements shall be met to the extent practical when a parking plan is proposed during the development review process. These standards may be waived if the reviewing entity determines that the total number of parking spaces necessary for the land use cannot be accommodated due to the application of this section, or if site layout prevents the application of this section, or if existing development on the site has been established and is incompatible with the requirements of this section. Specifically, these provisions shall typically apply for the development of new sites, rather than for additions to existing sites.

A. Location and Screening

1. No parking area may be constructed within a required setback.

2. Where applicable, off-street parking shall be located behind or to the side of the principal building and be landscaped. In all Highway Commercial, Cook's Corner Center, Mixed Use and Industrial-Institutional Districts a maximum of one row may be located in front of the principal building, but not within the required front yard.
3. Except where screening is provided, parking areas should be designed and landscaped to avoid long, uninterrupted rows of vehicles.
4. All parking areas should be appropriately screened as approved in the required landscaping plan.
5. Parking lots containing more than 30 spaces shall be broken into separate parking areas by the use of landscaped islands, pedestrian and bicycle areas, or buildings.
6. The requirements of this subsection may be waived in situations where a primary structure already exists on the parcel and there is no other alternative for siting parking, or where compliance would be impractical.
7. All plans for parking areas shall include a landscaping plan which adequately screens parking lots, and that provides interruptions of parking spaces.

512.4 Construction of Parking Areas

Parking areas shall be constructed with a suitably durable surface that minimizes dust and is appropriate for the use of the land, with adequate drainage. Surfacing, grading and drainage shall facilitate groundwater recharge by minimizing impermeable pavement and run-off. Oil traps may be required for larger paved parking lots. Parking areas to be used at night shall be lighted in a manner that does not result in direct lighting to or glare to abutting residential properties or cause a traffic hazard due to glare.

512.5 Bicycle and Pedestrian Access and Circulation

All parking plans shall include a bicycle and pedestrian circulation plan. The plan shall show the locations where bicycles and pedestrians are likely to travel both into the site and within it. The parking plan shall be designed to provide safe pedestrian and bicycle access, and shall propose improvements necessary to link pedestrian and bicyclists from identified points outside of the development.

- A. The parking plan shall delineate bicycle parking facilities. Such facilities shall be located as close as possible to the principal building. The provision of bicycle parking may be used to offset the number of automobile spaces required.
- B. Pedestrian pathways shall be provided within and between parking areas and between buildings, streets, and other parking areas.
- C. In Growth Areas, all applications with parking plans containing 10 or more new parking spaces shall provide sidewalks on portions of their frontage that abut a public road.

512.6 Parking Plan Alternatives

The following are viable alternatives which may be accepted by the Planning Board when reviewing parking plans.

A. Shared Parking

For the purposes of this subsection, shared parking means a common parking lot for multiple parcels and uses, where a driver may visit these uses from one parking space. The Planning Board may approve shared parking if it finds that such proposal will result in improved circulation and access for cars, pedestrians and bicyclists. In approving shared parking, the Planning Board may reduce or eliminate side and rear setback requirements for parking spaces, but only if such setback reduction is associated with the shared parking plan and shares common boundaries with affected portions of the parcels. In approving shared parking, the Planning Board or Staff Review Committee shall require cross-easements or other legally enforceable documents for shared parking which permanently ensure the shared parking arrangement. A limited number of spaces within a shared parking configuration may be designated for a particular business for a portion of a day, provided that the proposed parking lot in total functions as a shared parking lot.

B. Satellite Parking Lots

Parking lots may be constructed as a principal use with Site Plan approval in all rural districts and the HC1, HC2, CC, and I1,I2, I3 and I4 districts where such parking lots will be used to provide remote parking for the downtown or other intensively used locations. Such parking lots shall normally have a permeable surface throughout, shall be serviced by a shuttle bus, trolley, or jitney, and shall comply with all applicable location and screening requirements of this Ordinance. Satellite parking lots may also be used as park-and-ride lots for carpoolers and bus passengers and for holding specified types of special events if so provided in the Site Plan approval.

513 Curb Cuts and Highway Access

Any development review proposal that will generate over 500 vehicle trips per day, as determined by Institute of Traffic Engineers (ITE) standards, shall comply with the following standards. In cases where these requirements or the exceptions found in 513.2 cannot be satisfied, the Planning Board may deny the application.

513.1 Minimum Distance Between Curb Cuts

<i>Highway Speed Limit (mph)</i>	<i>Minimum Distance (feet)</i>
20	85
25	105
30	125
35	150
40	185
45	230
50	275

513.2 Exceptions

The Planning Board may approve applications that do not comply with Section 513(1) under any of the following circumstances, provided that the site plan not reduce level of service within 200 feet of the proposed curb cut:

- A. The applicant demonstrates that the proposed development will have an equal or lesser number of vehicle trips per day than any existing use or use that has occurred on the property during the past five years.

- B. The development proposal reduces the number of curb cuts that exists within the minimum distance.
- C. The proposal consolidates curb cuts for one or more adjacent parcels.

514 Off Street Loading Requirements

Loading requirements vary with the specific uses proposed. Loading requirements shall be applied to ensure that trucks load and unload cargo in a manner that does not interfere with pedestrian and automobile movements on public roads. Requirements for the number and location of loading facilities shall be established case by case based upon the following:

- 514.1 The expected maximum number of trucks using the loading facilities at times of peak usage.
- 514.2 The type of business, size of the structure, and size of trucks to be servicing the structure.
- 514.3 The location of the loading facility away from potential pedestrian, automobile and bicycle traffic conflicts.
- 514.4 The need to screen trucks and loading facilities from publicly accessible areas as well as from abutting properties, including the need for vegetative screening, buffers, and/or fencing.
- 514.5 The desirability of requiring service roads or alleys to achieve the purposes of this subsection.
- 514.6 Other operational characteristics of the business or physical characteristics of the site deemed appropriate by the reviewing entity or official.
- 514.7 The need to maintain the traditional layout and historic character of the Town center, which may preclude the establishment of modern loading facilities in some locations.
- 514.8 The loading facility shall be sited in a manner which minimizes noise impacts on other property. Mitigation measures shall be employed to ensure that noise is minimized.

515 Appearance Assessment

The final plan shall portray the relationship of the development to surrounding properties, buildings, and natural features. The Planning Board may require that preliminary work involving areas of special sensitivity or significance be conducted by a design professional. The appearance assessment must address the following:

- 515.1 Relation of Project to Site** The Plan must provide for smooth transitions between the street-scape, driveway entrance, and project landscaping. Height and scale of the proposed structures must be consistent with the existing structures.
- 515.2 Relationship of the Project to Surrounding Property** The Plan must provide for smooth transitions between land, proposed structures, and surrounding properties. Compatible transitions may be achieved by utilizing screening materials, landscaping and natural topography.
- 515.3 Relationship of Landscape Design to Project** Landscape design must include all forms of planting and vegetation, including existing vegetation, topography, water patterns, and utilitarian structures such as, but not limited to, fencing and curbing. Wherever practicable, the applicant shall maintain existing topography and vegetation. Landscaping must provide a transition between buildings, parking and pedestrian walkways. Suitable plant material must be selected according to its structure, texture, color, ultimate growth, and hardiness. The design

may provide for the use of materials such as fences, walls and a variety of paving types where there is difficulty in achieving vegetation growth.

515.4 Relationship of Lighting to Project. The design, type, and location of site lighting are subject to review. The lighting materials must blend with the overall project enhancing building design and landscaping. Standards and fixtures must be compatible with surrounding developments. All lighting that is more than 200 watts shall be of the cut-off luminaire variety.

515.5 Relationship of Signs to the Project. Sign installation or modification shall comply with Chapter 6 (Sign Regulations).

515.6 Village Review Overlay District. Where a structure lies within the Village Review Zone, the applicant must incorporate the review and comment of the Village Review Board into the final plan prior to the Planning Board's final approval.

515.7 Cook's Corner District. Any project located within the Cook's Corner District shall conform to the additional standards for that district including the Cook's Corner Design Standards. (Amended 5/20/02 R)

516 Building Configuration

New structures shall be oriented toward public streets. Orientation to the street may include the location of the main entrance of a building, or the construction of windows or facade improvement designed to enhance street orientation.

517 Preservation of Historic Resources

All site plans involving the use or reuse of a structure that is located outside of the Village Review Zone and listed on the National Register of Historic Places, or otherwise identified as a historic resource by the State of Maine or the Brunswick Town Council shall be identified to the Planning Board. The Planning Board shall seek a recommendation from the Pejepscot Historic Society regarding potential mitigation of development, or may require additional analyses from a certified architect who specializes in Historic Preservation.

518 Access for Persons with Disabilities

Applicants shall be responsible for complying with applicable provisions of the Americans with Disabilities Act, as amended. Where required, plans shall indicate the location and type of access for disabled persons to parking areas, and entrances and exits.

519 Recreational Requirements for Residential Developments

519.1 Reservation of Land

Except as set forth in Section 519.3, the Planning Board may require the reservation of land for parks, playgrounds, or conservation areas to benefit the residents of the proposed development. Reserved land must be of suitable dimension, topography and general character for the proposed recreational use and must be reasonably accessible to residents of the development. It must be designated on the plan as "Reserved for Conservation or Recreational Purposes." The area to be reserved must be determined according to the following table:

Average Size	Percentage of Total Parcel to be Reserved for Recreational Purposes
Single Family Lots	
80,000 s.f. or greater	1.6%
40,000 s.f.	3.3%
20,000 s.f.	6.5%
15,000 s.f.	8.7%
10,000 s.f.	13.0%
Multi-family units	1,300 s.f. per unit.

519.2 Land Improvements

The applicant shall improve the reserved land according to the requirements of the Planning Board. In determining these requirements, the Board shall consider the Comprehensive Plan and the long-range plans for the Recreation Department and Conservation Commission.

519.3 Fee in Lieu of Land

Upon the recommendation of the Recreation Commission, the Planning Board may require the applicant to pay a fee to the Town in lieu of a donation of land for recreational purposes. The fee must equal the per-acre value of an undeveloped housing site, as determined by an appraiser acceptable to the applicant and the Planning Board, multiplied by the required area for reservation according to Section 519.1. The funds must be used for the construction of a new, or improvement of an existing, recreation or conservation area as mutually agreed upon by the applicant.

519.4 Recreation Land Ownership

As soon as the use of the recreation or conservation land has been established, the means of future ownership and control must be determined. The following alternatives are available, as agreed to by the applicant and the Planning Board:

- A. The land may be held and maintained in common by the future owners of the development, under the by-laws of a home-owner's association, as approved by the Planning Board.
- B. It may be held and maintained in perpetuity by a conservation trust or other suitable private organization.
- C. It may be deeded to the Town for future maintenance and improvement, if acceptable to the Town Council.

520 Fiscal Capacity

The Planning Board may require evidence of fiscal capacity, which shall demonstrate that the applicant has the financial resources to complete the project.

521 Performance Guarantee

Where applicable, a performance guarantee shall be filed in accordance with final plan approval and this Section.

521.1 When Required

The performance guarantee may be required prior to the construction of infrastructure that is intended for dedication to the Town of Brunswick, The Brunswick-Topsham Water District or Brunswick Sewer District or of infrastructure that will be privately owned but will function as the equivalent of public improvements, including, but not limited to, private roads, private sewer systems and private water systems. No Certificate of Occupancy may be issued unless a written approval is granted by the Town Engineer which states that the occupancy of the project or project phase can accommodate occupants without posing a threat to the public's safety. A performance guarantee will also be required prior to initiation of work within an existing public right of way.

The Planning Board may also require security for a period of two years to ensure the replacement of any plantings shown on the landscaping plan which have failed to grow normally, are diseased or have died.

521.2 Certified Check, Performance Bond or Letter of Credit

- A. The performance guarantee may be a performance bond, irrevocable letter of credit, or an escrow agreement. Such performance guarantee shall be in a form acceptable to the Town Manager, based upon the recommendations of the Town Engineer, Director of Planning & Development and Town Attorney.
- B. The performance guarantee shall be for the full amount of the cost of the subject work, as determined by the Town Engineer, plus an additional 10% to account for inflation and contingencies.
- C. The time for performance under the performance guarantee shall not exceed two years and the full amount secured by the performance guarantee shall remain available to the Town for the entire term of the performance guarantee unless reduced by written agreement between the Town Manager and the applicant.

521.3 Release of Performance Guarantee

The developer may request, at any time, that the performance guarantee be released, in whole or in part. Within 60 days of receiving such a request, the Town Manager, based upon the recommendation of the Town Engineer and Director of Planning & Development, may release all or part of the performance guarantee. In making a determination on the request, the Town Manager shall consider, and the applicant shall provide, evidence of satisfactory completion of the required improvements such as, but not limited to:

- A. A statement by the Town Engineer that all street and storm drain systems have been constructed and completed in compliance with the Final Plan.
- B. A statement from the Brunswick Sewer District Superintendent that all sewage disposal systems have been constructed and completed in conformity with the Final Plan.
- C. A statement by a professional land surveyor, that all permanent boundary monuments have been set in accordance with the final plan and current guidelines and standards of the State of Maine Board of Licensure for Professional Land Surveyors, Rules at all street corners and angles of all street lines and along with intersections, corners or breaks in a straight lot line. The cost of obtaining this statement shall be borne by the applicant. (Amended 12/1/97 R)
- D. In releasing the performance guarantee, the Town shall provide the applicant with a certificate of compliance signed by the Town Manager.

522 Home-owners/Property Owners Associations

All private roads, land and facilities owned in common private ownership shall be managed and controlled by a home-owners association (or property owner's association), in accordance with the following:

- 522.1 The documentation for the association shall be completed prior to approval of the final subdivision plan, and recorded prior to the sale of the first lot. The association shall comply with all applicable provisions of State law.
- 522.2 Membership shall be mandatory for each lot owner within the development, who shall be required by recorded covenants and restrictions to pay fees to the home-owners association for taxes, insurance, and maintenance of commonly owned land, private roads, and other common facilities.

- 522.3 Property owners shall be required to pay their pro rata share of the costs and the assessment levied by the association shall become a lien on the property.
- 522.4 The home-owners association shall be able to adjust the assessment to meet changed needs.
- 522.5 Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the conservation land from the association and its members.

Section 523 has been moved to Section 308

524 Noise and Dust

524.1 Adequate provisions must be made to control unnecessary noise from and at the site. The Planning Board may require the applicant to establish pre- and post-development noise levels.

Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work is prohibited on Sundays and days which the following holidays are observed: New Years, Memorial Day, 4th of July, Labor Day, Thanksgiving and Christmas. All construction, drilling or demolition work shall be conducted between 7:00 AM and 7:00PM except when prior, written approval has been obtained from the Codes Enforcement Officer. The Codes Enforcement Officer shall only grant approval for work after hours in the case of special circumstances and such approval shall not be granted on a regular basis. (Amended 6/19/00 R)

524.2 The applicant will apply and maintain asphalt, water or calcium chloride on dirt roads, driveways and parking lots and other surfaces to control the level of airborne dust and other particles associated with construction of the project.